

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Church of Scientology of California

Counterclaimant PLAINTIFF(S)

vs.

Michael Flynn, Thomas Hoffman &
Thomas Greene, *Jane Lee Anderson, Richard J. Anderson, Carol A. Hunt, Paul Hunt, Thomas Jefferson, Inc., Ireland*
Counterclaimant DEFENDANT(S)

CASE NUMBER

81-3259-CBM
CV- 81-3260-CBM
81-3621-CBM
81-4109-CBMSUMMONS on
Counterclaim

Counterclaimant

TO THE ABOVE-NAMED DEFENDANT(S), You are hereby summoned and required to serve upon

A. Thomas Hunt
Taylor, Roth & Hunt

Counterclaimant

plaintiff's attorney, whose address is:

Suite 510
617 South Olive
Los Angeles, California

Counterclaim

an answer to the/complaint which is herewith served upon you within 20 days
after service of this summons upon you, exclusive of the day of service. If you
fail to do so, judgment by default will be taken against you for the relief de-
counterclaim
manded in the/complaint.

DATE: April 15, 1982

EDWARD M. KRITZMAN, CLERK

By NANCY J. MILLER
Deputy Clerk

(SEAL OF THE COURT)

A. THOMAS HUNT
WALTER COCHRAN-BOND
TAYLOR, ROTH & HUNT
A Law Corporation
617 South Olive Street
Suite 510
Los Angeles, California 90014
(213) 623-8000

A 42

Attorneys for Defendant Church
of Scientology of California

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JANE LEE PETERSON and
RICHARD J. PETERSON,

Plaintiffs,

v.

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, et al.,

Defendants.

Civil No. 81-3259-CBM

CAROL A. GARRITY AND PAUL
GARRITY,

Plaintiffs,

v.

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, et al.,

Defendants.

Civil No. 81-3260-CBM

THOMAS JEFFERSON,
Plaintiff,

Civil No. 81-3621-CBM

v.

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, et al.,
Defendants.

DANA LOCKWOOD,
Plaintiff,

Civil No. 81-4109-CBM

v.

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, et al.,
Defendants.

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, et al.,
Counterclaimant
Plaintiff,

v.

MICHAEL FLYNN, THOMAS HOFFMAN,
THOMAS GREENE, JANE LEE PETERSON,
RICHARD J. PETERSON, CAROL A.
GARRITY, PAUL GARRITY, THOMAS
JEFFERSON, and DANA LOCKWOOD,
Counterclaimant
Defendants.

DEFENDANT'S COUNTERCLAIM FOR INJUNCTIVE
RELIEF AND DAMAGES
(ABUSE OF PROCESS)

The defendant, for its counterclaim against the plaintiffs, and the counterclaimant defendants, alleges and says:

I. COUNTERCLAIM

1. This is a permissive counterclaim for damages for the tort of Abuse of Process pursuant to Rule 13(b) of Fed.R.Civ.P.

II. JURISDICTION

2. Jurisdiction of this counterclaim is predicated on 28 U.S.C. §1332. The matter in controversy exceeds the sum of \$10,000 or more.

III. ALLEGATIONS

3. On or about December 13, 1979, Michael J. Flynn, Thomas Hoffman, and Thomas Greene, attorneys in Boston, Massachusetts, and counterclaimant defendants in this counterclaim, filed a class action complaint against the Church of Scientology of California, and various other affiliate Churches, for claims involving breach of contract, fraud, and intentional infliction of emotional distress. This action was brought in the United States District Court in Boston, Massachusetts, Civil Action No. 79-2491-G. The complaint in the Van Schaick case ultimately was amended to limit the class action

claims to violations of the Racketeer Influenced and Corrupt Organizations Act, ("RICO") but incorporated in the RICO claims were allegations of fraud, misrepresentation, breach of contract and intentional infliction of emotional distress.

4. During the years 1980 and 1981 Defendants Michael Flynn, Thomas Hoffman and Thomas Greene, solicited "associate" attorneys, and caused no less than 18 individual lawsuits to be filed against the Church of Scientology of California, defendant and plaintiff counterclaimant herein. These lawsuits are as follows:

1. Jose Baptista vs. Church of Scientology, et al.
2. Mark D. Barron vs. Church of Scientology, et al.
3. Peggy Bear vs. Church of Scientology, etc., et al.
4. Eileen Brown, etc. vs. The Delphian Foundation, et al.
5. Tonja C. Burden vs. Church of Scientology, et al.
6. Carol A. Garrity, et al. vs. Church of Scientology, et al.
7. Marjorie J. Hansen vs. Church of Scientology, et al.
8. Thomas Jefferson vs. Church of Scientology, et al.
9. Deborah Ann Keck vs. The Church of Scientology, et al.
10. Dana Lockwood vs. Church of Scientology, et al.
11. Stephen R. Pacca vs. The Founding Church of Scientology, et al.
12. Jane Lee Peterson, et al. vs. Church of Scientology, et al.
13. Patrick R. Rosenkjar vs. Church of Scientology, et al.
14. Michael W. Smith vs. Church of Scientology, et al.

15. Steven Garritano, vs. Church of Scientology, etc., et al.
16. Janet Troy vs. Church of Scientology, et al.
17. Donald Bear v. Church of Scientology of California, et al.
18. Kim L. Vashel vs. Church of Scientology, et al.

As a general matter the claims in these cases listed immediately above are virtually identical to each other and to the claims in the Van Schaick class action, namely claims for fraud, breach of contract, misrepresentation, violations of RICO, and intentional infliction of emotional distress. None of these cases were filed as class actions.

5. Included in the cases listed immediately above, are the instant four cases, also involving claims similar to those in the class action.

6. Defendants Michael Flynn, Thomas Hoffman and Thomas Greene are either formal attorneys of record in all of the cases listed above or are informally assisting their "associated" attorneys of record, including the attorneys of record in the four instant cases, namely the law firm of Contos & Bunch. All of the "associated" attorneys of record were recruited and solicited by the Defendants Michael Flynn, Thomas Hoffman, Thomas Greene, or by non-lawyers working under their supervision. These counterclaimant defendants have furnished the "associated" attorneys with prototype pleadings.

7. The commencement and prosecution of the myriad individual cases was done by counterclaimant defendants, including the counterclaimant defendants who also are plaintiffs

A 47

1 in the instant four cases, with malice and for the purpose of
2 obtaining a collateral advantage and to accomplish an end other
3 than that which the litigation process was designed to
4 accomplish. The improper collateral advantage sought was to use
5 the commencement and prosecution of the numerous lawsuits as a
6 threat or a club, in the form of extortion, to force the
7 Defendant Church of Scientology of California to settle the
8 numerous lawsuits in order to avoid the extreme expense of
9 defending the numerous lawsuits in numerous inconvenient
10 jurisdictions.

11 8. The improper ulterior motive and collateral
12 advantage sought by the counterclaimant defendants was expressed
13 in a series of settlement letters sent by counterclaimant
14 defendant Michael Flynn to an attorney for Defendant Church of
15 Scientology of California in June, 1981. These letters expressly
16 make the threat that unless the Defendant Church settles all
17 "existing" cases for 1.6 million dollars, the counterclaimant
18 defendants will "increase the litigation", but that if the
19 proposed settlement is effectuated the counterclaimant defendants
20 will commence no additional cases and will not assist the
21 "associated" attorneys in their cases.

22 9. This pattern of conduct continues to the present
23 time. Counterclaimant Defendant Michael Flynn recently has
24 publicly threatened to bring additional lawsuits against the
25 defendant Church.

26 10. This pattern of conduct by the counterclaimant
27 defendants constitutes the tort of abuse of process, which has
28

been defined both by Professor Prosser and by the California Courts, including the California Supreme Court in Spellens v. Spellens, 49 Cal.2d. 210 (1957).

11. Unless preliminarily and permanently enjoined by this Court, the counterclaimant defendants will continue their pattern of abuse of process.

IV. RELIEF

WHEREFORE, Defendant/Plaintiff Counterclaimant Church of Scientology prays for the following relief:

1. A temporary restraining order and A preliminary and permanent injunction prohibiting Counterclaimant Defendants Flynn, Hoffman and Greene from continuing to commit an abuse of process and in particular from:

- (a) continuing to participate in any way in the instant litigation, by assisting the plaintiffs or their attorneys or otherwise.
 - (b) soliciting any new plaintiffs for the purpose of commencing new lawsuits against Defendant Church.
 - (c) soliciting any additional "associated" attorneys for any additional cases to be brought against the Defendant Church.
 - (d) participating in any way in the commencement of any additional lawsuits against Defendant Church.
- And
- (e) receiving any benefits in attorneys fees or

1 otherwise from the existing lawsuits listed above in
2 paragraph four of this Counterclaim.

3 2. Compensatory damages for the costs of defending
4 the lawsuits resulting from the abuse of process.

5 3. Punitive damages, due to the fact the Plaintiffs
6 and Counterclaimant Defendants acted with malice and with a
7 wilfull intent to injure Defendant Church.
8

9 Defendant Church of Scientology further prays
10 for such other relief as the Court may deem appropriate and the
11 interests of justice may require, including costs and reasonable
12 attorneys' fees.
13

14 DATED: April 15, 1982
15

16 A. THOMAS HUNT
17 WALTER COCHRAN-BOND
18 TAYLOR, ROTH & HUNT
A Law Corporation

19 By _____
20 A. THOMAS HUNT

21 Attorneys for Defendant Church
22 of Scientology of California
23
24
25
26
27
28